RECENT CASES.

ACCORD AND SATISFACTION—WHAT CONSTITUTES.—HARBY V. HEUES, 90 N. Y. SUPP. 461.—*Held*, that the acceptance by the creditor of a check from the debtor, written as "in full payment," with immediate notice to the debtor that action would be brought for the balance claimed, is not an accord and satisfaction.

The general rule is that there can be no accord and satisfaction of a debt by a simple payment of a smaller sum than the amount actually due or owing, unless there be a release under seal, *Cumper v. Wane*, 1 Strange 426; or a new consideration. *U. S. v. Bostwick*, 94 U. S. 53. The rule and reason are purely technical, and there is constant effort to escape from its absurdity and injustice. *Harper v. Graham*, 20 Ohio 105; *Brooks v. White*, 2 Met. 285; and it does not hold in Pennsylvania; *Milliken v. Brown*, 1 Rawle 391. A receipt "in full satisfaction and discharge" is not conclusive evidence of accord and satisfaction, *McCullen v. Hood*, 14 N. C. 219; unless the debt be unliquidated and the amount uncertain, *Baird v. United States*, 96 U. S. 430; and payment was in fact made and accepted in satisfaction. *Fitch v. Sutton*, 5 East 230. If there be a controversy between the parties as to the amount due, and the debtor tender the amount which he claims to be due, but upon condition that it shall be accepted in discharge, and it be accepted, then there is accord and satisfaction by conclusion of law, on the principle that one accepting a conditional tender assents to the condition. *Preston v. Grant*, 34 Vt. 201; *Bull v. Bull*, 43 Conn. 455; *Reed v. Boardman*, 20 Pick. 441.

CARRIERS OF PASSENGERS—SEAWORTHINESS OF VESSEL—LIABILITY FOR INJURIES.—THE OREGON, 133 FED. 609.—*Held*, that there is no implied warranty, on the part of a carrier of passengers by sea, of the seaworthiness of the vessel. Ross, J., *dissenting*.

Carriers of passengers by sea are held to the same high degree of care as those who carry by land. *Hall v. Steamboat Co.*, 13 Conn. 319; *Shear. & Red., Neg.*, 495. A carrier by land need not furnish a "roadworthy" vehicle. *Stokes v. Ry. Co.*, 2 Fost. & F. 691; *Meier v. R. Co.*, 64 Pa. St. 225. Nor need the carrier by sea furnish a seaworthy ship. *Carroll v. R. Co.*, 58 N.Y. 126; *Whart., Neg.*, Sec. 638. But an accident through a defect is *prima facie* evidence of negligence. *Dawson v. R. Co.*, 5 Law Times, N. S., 682. U. S. statutes make certain requirements of the owners of passenger vessels. 10 *Stat. at L.* 61; 16 *Stat. at L.* 440. But these do not abrogate the common law rules as to liability. *Caldwell v. Steamboat Co.*, 47 N. Y. 282.

CONSTITUTIONAL LAW—INSURANCE CORPORATIONS—REVOCATION OF AUTHORITY.—PREWITT V. SECURITY M. L. INS. CO., 83 S. W. 611; 84 S. W. 527 (KY.).—Where a state statute provides that if any foreign insurance company, without consent of the other party to a suit brought by or against it in any state court, shall remove the suit to the federal court, the insurance commissioner